

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

CHARLES SMITH ENTERPRISES,
LLC,

Plaintiff,

v.

CATAPULT SPORTS, INC.,

Defendant.

CHARLES SMITH ENTERPRISES,
LLC,

Plaintiff,

v.

DVSport, INC.,

Defendant.

**Civil Action No. 1:21-cv-01278-
CFC**

JURY TRIAL DEMANDED

**Civil Action No. 1:21-cv-01279-
CFC**

JURY TRIAL DEMANDED

JOINT CLAIM CONSTRUCTION CHART

Pursuant to the Scheduling Order in these cases, Plaintiff Charles Smith Enterprises, LLC (“CSE”) and Defendants Catapult Sports, Inc. (“Catapult”) and DV Sport, Inc. (“DV Sport”), collectively “the Parties,” hereby provide the Court with their Joint Claim Construction Chart with respect to the patents in suit in these cases, namely CSE’s U.S. Patent No. 6,877,010 (“the ’010 patent”) and its related U.S. Patent No. 7,756,876 (“the ’876 patent”).

1. Construction of terms on which the Parties agree.

The Parties do not presently agree on the construction of any disputed terms in either the '010 patent or the '876 patent.

2. Parties' constructions of disputed terms.

The parties' proposed claim constructions are provided below. Text-searchable PDF of each of the patents in suit are attached as Exhibits A and B, respectively. The Parties reserve their rights to cite additional supporting evidence based on arguments raised in the claim construction briefs. Each Party reserves its right to use any citation identified by another Party as appropriate to rebut each other's positions. Moreover, each Party reserves the right to supplement, amend, and/or modify the following positions for any reason as the claim construction process proceeds. Each Party further reserves the right to provide additional positions and/or constructions once another Party make its positions clear and/or offers evidence and/or argument regarding the construction and/or alleged indefiniteness of any claim term, including during claim construction briefing. In addition, each Party reserves the right to rely on any extrinsic evidence, including expert testimony, to refute or rebut any claim construction position and/or intrinsic and/or extrinsic evidence offered by any other Party.

Appears in claims	Claim Term	Plaintiff's Proposed Construction	Plaintiff's Intrinsic Evidence	Defendants' Proposed Construction	Defendants' Intrinsic Evidence
claim 1 of the '010 patent (and dependent claims that reference same term, <i>e.g.</i> , claims 4, 5 and 8-10)	“a customizable media logging system for indexing media”	a customizable media logging system that encodes video content in an MPEG stream format for indexing	<p>The '010 patent: <i>See, e.g.</i>, Abstract; 7:60-8:30; 8:31-11:64; 13:62-17:35; and all Figures referenced or described in any of the foregoing</p> <p>The '010 patent prosecution history: <i>See, e.g.</i>, the original claims, specification and drawings; and all substantive prosecution, including 12/23/03 non-final rejection, 6/18/04 response to non-final rejection and amended claims, and 11/26/04 notice of</p>	<p>No construction necessary – plain and ordinary meaning</p> <p>Defendants propose a construction for “customizable media logging system.” Defendants’ proposed construction for that term is provided below.</p>	

Appears in claims	Claim Term	Plaintiff's Proposed Construction	Plaintiff's Intrinsic Evidence	Defendants' Proposed Construction	Defendants' Intrinsic Evidence
			allowance		
claim 1 of the '010 patent (and dependent claims that reference same term, <i>e.g.</i> , claims 5 and 8-9); and	"media" or "the media"	media in an MPEG stream format	The '010 patent: <i>See, e.g.</i> , Abstract; 1:13-25; 1:25-4:12; 4:13-5:6 (and all Figures); 5:6-7:37; 7:60-11:64; 13:62-17:35; and all Figures referenced and/or described in any of the foregoing The '010 patent prosecution history: <i>See, e.g.</i> , the original claims, specification and drawings; and all substantive prosecution, including 12/23/03 non-final rejection, 6/18/04 response to non-final	No construction necessary – plain and ordinary meaning	

Appears in claims	Claim Term	Plaintiff's Proposed Construction	Plaintiff's Intrinsic Evidence	Defendants' Proposed Construction	Defendants' Intrinsic Evidence
claim 1 of the '876 patent (and dependent claims that reference same term, <i>e.g.</i> , claims 2, 3, 5, 6, 9, 10 and 13)	“media” or “the media”	media in an MPEG stream format	<p>rejection and any amended claims, and 11/26/04 notice of allowance</p> <p>The '876 patent: <i>See, e.g.</i>, Abstract; 1:13-25; 1:25-4:12; 4:13-5:6 (and all Figures); 5:6-7:37; 7:60-11:64; 13:48-17:18; and all Figures referenced and/or described in any of the foregoing</p> <p>The '876 patent prosecution history: <i>See, e.g.</i>, <i>See, e.g.</i>, the original claims, specification and drawings; and all substantive</p>		

Appears in claims	Claim Term	Plaintiff's Proposed Construction	Plaintiff's Intrinsic Evidence	Defendants' Proposed Construction	Defendants' Intrinsic Evidence
			prosecution, including 8/14/07 non-final rejection, 12/10/07 response to non-final rejection and any amended claims, 3/26/08 final rejection, 6/26/08 response to final rejection and any amended claims, 7/25/08 advisory action, 8/26/08 notice of appeal, 8/26/08 pre-appeal brief conference request, 1/6/09 appeal brief, 3/10/09 non-final rejection, 9/10/09 response to non-final rejection and any amended claims, 9/24/09 non-final rejection, 12/10/09 response to non-final		

Appears in claims	Claim Term	Plaintiff's Proposed Construction	Plaintiff's Intrinsic Evidence	Defendants' Proposed Construction	Defendants' Intrinsic Evidence
			rejection and any amended claims, and 3/5/10 notice of allowance		
claim 1 of the '010 patent	“timer object that provides a time reference”	No construction necessary; Not subject to 35 U.S.C. § 112(6); and Not indefinite		Claim term construed under 35 U.S.C. § 112(6). Indefinite.	
claim 1 of the '010 patent	“a logger object that logs”	No construction necessary; Not subject to 35 U.S.C. § 112(6); and Not indefinite		Claim term construed under 35 U.S.C. § 112(6). Indefinite.	
claim 1 of the '010 patent	“graphical user interface generator that generates”	No construction necessary; Not subject to 35 U.S.C. § 112(6); and Not indefinite		Claim term construed under 35 U.S.C. § 112(6). Indefinite.	
claim 1 of the '010 patent	“customizable media logging system”	No construction necessary, but see above construction		“changeable media logging system that	<i>See, e.g., Ex. A ('010 Patent) at 2:55-63, 3:45-52,</i>

Appears in claims	Claim Term	Plaintiff's Proposed Construction	Plaintiff's Intrinsic Evidence	Defendants' Proposed Construction	Defendants' Intrinsic Evidence
		for “a customizable media logging system for indexing media”		can be changed on the fly by the customer”	<p>5:29-33, 5:45-50, 6:64-7:2, 7:9-13, 7:43-52, 11:57-13:38, 14:4-12, 14:49-54, 16:42-57, 17:26-31, FIGS. 2-3, 8, 12-17, FIGS. 25, 41-42; US 8,060,515 (“the ’515 patent”)¹ at independent claims 1, 14, and 21.</p> <p><i>See also</i> ‘010 File History at Response to Office Action (June 18, 2004) at 2-4 and 6-7, Notice of Allowance (November 26, 2004) at 2-3.</p> <p><i>See also</i> ‘876 File History at Response</p>

¹ The ’515 patent is a continuation of the ’876 patent.

Appears in claims	Claim Term	Plaintiff's Proposed Construction	Plaintiff's Intrinsic Evidence	Defendants' Proposed Construction	Defendants' Intrinsic Evidence
					<p>to Office Action (December 10, 2007) at 2, 4-5, 7, 8, and 11-12, Response to Office Action (June 26, 2008) at 9- 11, Pre-Appeal Conference Request (August 26, 2008) at 2-5, Appeal Brief (November 10, 2008) at 7, 9, and 11-15, Response to Office Action (September 10, 2009) at 3-4, Response to Office Action (December 10, 2009) at 12-14, Notice of Allowance (March 5, 2010) at 2.</p> <p><i>See also</i> '515 File History at Response to Office Action</p>

Appears in claims	Claim Term	Plaintiff's Proposed Construction	Plaintiff's Intrinsic Evidence	Defendants' Proposed Construction	Defendants' Intrinsic Evidence
					(June 14, 2011) at 4, 6, and 10-11.
claim 1 of the '010 patent	"a timer object that provides a time reference upon request in connection with the media"	No construction necessary		"a timer object that provides the amount of the media that has been captured upon request in connection with the media"	<i>See, e.g.,</i> Ex. A ('010 Patent) at 5:25-29, 6:12-20, 6:21-63, 7:43-52, FIGS. 1, 3.
claim 1 of the '010 patent	"wherein the graphical user interface is customizable to correspond to types of events that occur in the particular media being logged"	No construction necessary		"wherein the graphical user interface is changeable on the fly by the customer to correspond to types of events that occur in the particular media being logged"	<i>See, e.g.,</i> Ex. A ('010 Patent) at 2:55-63, 3:45-52, 6:64-7:25, 11:57-13:38, 14:4-12, 14:49-54, 16:42-57, 17:26-31, FIGS. 12-17, FIGS. 25, 41-42; '515 patent at independent claims 1, 14, and 21. <i>See also</i> '010 File History at Response to Office Action

Appears in claims	Claim Term	Plaintiff's Proposed Construction	Plaintiff's Intrinsic Evidence	Defendants' Proposed Construction	Defendants' Intrinsic Evidence
					(June 18, 2004) at 2-4 and 6-7, Notice of Allowance (November 26, 2004) at 2-3. <i>See also</i> '876 File History at Response to Office Action (December 10, 2007) at 2, 4-5, 7, 8, and 11-12, Response to Office Action (June 26, 2008) at 9-11, Pre-Appeal Conference Request (August 26, 2008) at 2-5, Appeal Brief (November 10, 2008) at 7, 9, and 11-15, Response to Office Action (September 10, 2009) at 3-4, Response to Office

Appears in claims	Claim Term	Plaintiff's Proposed Construction	Plaintiff's Intrinsic Evidence	Defendants' Proposed Construction	Defendants' Intrinsic Evidence
					<p>Action (December 10, 2009) at 12-14, Notice of Allowance (March 5, 2010) at 2.</p> <p><i>See also</i> '515 File History at Response to Office Action (June 14, 2011) at 4, 6, and 10-11.</p>
claim 1 of the '010 patent	“custom graphical user interface including custom user interface objects”	No construction necessary		“the graphical user interface can be changed on the fly by the customer [to include user interface objects changeable by the customer]”	<p><i>See, e.g.,</i> Ex. A ('010 Patent) at 2:55-63, 3:45-52, 6:64-7:25, 11:57-13:38, 14:4-12, 14:49-54, 16:42-57, 17:26-31, FIGS. 12-17, FIGS. 25, 41-42; '515 patent at independent claims 1, 14, and 21.</p> <p><i>See also</i> '010 File History at Response</p>

Appears in claims	Claim Term	Plaintiff's Proposed Construction	Plaintiff's Intrinsic Evidence	Defendants' Proposed Construction	Defendants' Intrinsic Evidence
					<p>to Office Action (June 18, 2004) at 2-4 and 6-7, Notice of Allowance (November 26, 2004) at 2-3.</p> <p><i>See also</i> '876 File History at Response to Office Action (December 10, 2007) at 2, 4-5, 7, 8, and 11-12, Response to Office Action (June 26, 2008) at 9-11, Pre-Appeal Conference Request (August 26, 2008) at 2-5, Appeal Brief (November 10, 2008) at 7, 9, and 11-15, Response to Office Action (September 10, 2009) at 3-4,</p>

Appears in claims	Claim Term	Plaintiff's Proposed Construction	Plaintiff's Intrinsic Evidence	Defendants' Proposed Construction	Defendants' Intrinsic Evidence
					<p>Response to Office Action (December 10, 2009) at 12-14, Notice of Allowance (March 5, 2010) at 2.</p> <p><i>See also</i> '515 File History at Response to Office Action (June 14, 2011) at 4, 6, and 10-11.</p>
claim 1 of the '010 patent	“wherein the graphical user interface generator uses information entered by a user to create the customized user interface”	No construction necessary		“wherein the graphical user interface generator uses information entered by a customer user to create the changeable user interface as defined by the customer [avoiding the need to hard code the interfaces]”	<p><i>See, e.g.</i>, Ex. A ('010 Patent) at 2:55-63, 3:45-52, 6:64-7:25, 11:57-13:38, 14:4-12, 14:49-54, 16:42-57, 17:26-31, FIGS. 12-17, FIGS. 25, 41-42; '515 patent at independent claims 1, 14, and 21.</p>

Appears in claims	Claim Term	Plaintiff's Proposed Construction	Plaintiff's Intrinsic Evidence	Defendants' Proposed Construction	Defendants' Intrinsic Evidence
					<p><i>See also</i> '010 File History at Response to Office Action (June 18, 2004) at 2-4 and 6-7, Notice of Allowance (November 26, 2004) at 2-3.</p> <p><i>See also</i> '876 File History at Response to Office Action (December 10, 2007) at 2, 4-5, 7, 8, and 11-12, Response to Office Action (June 26, 2008) at 9-11, Pre-Appeal Conference Request (August 26, 2008) at 2-5, Appeal Brief (November 10, 2008) at 7, 9, and 11-15, Response to Office Action</p>

Appears in claims	Claim Term	Plaintiff's Proposed Construction	Plaintiff's Intrinsic Evidence	Defendants' Proposed Construction	Defendants' Intrinsic Evidence
					(September 10, 2009) at 3-4, Response to Office Action (December 10, 2009) at 12-14, Notice of Allowance (March 5, 2010) at 2. <i>See also</i> '515 File History at Response to Office Action (June 14, 2011) at 4, 6, and 10-11.
claim 1 of the '010 patent	"graphical user interface generator"	No construction necessary		"graphical user interface software as a graphical user interface generator"	<i>See, e.g.,</i> Ex. A ('010 Patent) at 2: 55-67, 7:9-25, 11:57-13:38, FIGS. 12-17. <i>See also</i> '876 File History at Appeal Brief (November 10, 2008) at 11-12.

Appears in claims	Claim Term	Plaintiff's Proposed Construction	Plaintiff's Intrinsic Evidence	Defendants' Proposed Construction	Defendants' Intrinsic Evidence
claim 1 of the '876 patent	“events administrator programmed logic circuitry”	No construction necessary; Not subject to 35 U.S.C. § 112(6); and Not indefinite		Claim term construed under 35 U.S.C. § 112(6). Indefinite.	
claim 1 of the '876 patent	“timer object configured to provide a time reference”	No construction necessary; Not subject to 35 U.S.C. § 112(6); and Not indefinite		Claim term construed under 35 U.S.C. § 112(6). Indefinite.	
claim 1 of the '876 patent	“logger object configured to log”	No construction necessary; Not subject to 35 U.S.C. § 112(6); and Not indefinite		Claim term construed under 35 U.S.C. § 112(6). Indefinite.	
claim 1 of the '876 patent	“events administrator programmed logic circuitry . . . configured to define custom terminology	No construction necessary		“configured to allow a customer to define custom terminology applicable to the defined custom event”	<i>See, e.g., Ex. B ('876 Patent) at 2:57-2:65, 3:44-50, 6:59-63, 7:4-20, 11:48-13:22, 13:59-67, 14:36-41, 16:27-42, 17:7-13, FIGS.</i>

Appears in claims	Claim Term	Plaintiff's Proposed Construction	Plaintiff's Intrinsic Evidence	Defendants' Proposed Construction	Defendants' Intrinsic Evidence
	applicable to the defined custom event”				12-17, FIGS. 25, 41-42; '515 patent at independent claims 1, 14, and 21. <i>See also</i> '876 File History at Response to Office Action (December 10, 2007) at 2, 4-5, 7, 8, and 11-12, Response to Office Action (June 26, 2008) at 9-11, Pre-Appeal Conference Request (August 26, 2008) at 2-5, Appeal Brief (November 10, 2008) at 7, 9, and 11-15, Response to Office Action (September 10, 2009) at 3-4, Response to Office Action (December

Appears in claims	Claim Term	Plaintiff's Proposed Construction	Plaintiff's Intrinsic Evidence	Defendants' Proposed Construction	Defendants' Intrinsic Evidence
					<p>10, 2009) at 12-14, Notice of Allowance (March 5, 2010) at 2.</p> <p><i>See also</i> '010 File History at Response to Office Action (June 18, 2004) at 2-4 and 6-7, Notice of Allowance (November 26, 2004) at 2-3.</p> <p><i>See also</i> '515 File History at Response to Office Action (June 14, 2011) at 4, 6, and 10-11.</p>
claim 1 of the '876 patent	"a timer object configured to provide a time reference upon request in	No construction necessary		"a timer object configured to provide the amount of the media that has been captured upon request	<p><i>See, e.g.,</i> Ex. B ('876 Patent) at 5:23-27, 6:9-16, 6:17-58, FIG. 1.</p>

Appears in claims	Claim Term	Plaintiff's Proposed Construction	Plaintiff's Intrinsic Evidence	Defendants' Proposed Construction	Defendants' Intrinsic Evidence
	connection with the media”			in connection with the media”	
claim 1 of the '876 patent	“wherein the events administrator programmed logic circuitry is customizable by a user based in part on the type of media being indexed”	No construction necessary		“wherein the events administrator programmed logic circuitry is changeable on the fly by a customer user based in part on the type of media being indexed”	<p><i>See, e.g.,</i> Ex. B ('876 Patent) at 2:57-2:65, 3:44-50, 6:59-63, 7:4-20, 11:48-13:22, 13-59-67, 14:36-41, 16:27-42, 17:7-13, FIGS. 12-17, FIGS. 25, 41-42; '515 patent at independent claims 1, 14, and 21.</p> <p><i>See also</i> '876 File History at Response to Office Action (December 10, 2007) at 2, 4-5, 7, 8, and 11-12, Response to Office Action (June 26, 2008) at 9-11, Pre-Appeal Conference Request</p>

Appears in claims	Claim Term	Plaintiff's Proposed Construction	Plaintiff's Intrinsic Evidence	Defendants' Proposed Construction	Defendants' Intrinsic Evidence
					<p>(August 26, 2008) at 2-5, Appeal Brief (November 10, 2008) at 7, 9, and 11-15, Response to Office Action (September 10, 2009) at 3-4, Response to Office Action (December 10, 2009) at 12-14, Notice of Allowance (March 5, 2010) at 2.</p> <p><i>See also</i> '010 File History at Response to Office Action (June 18, 2004) at 2-4 and 6-7, Notice of Allowance (November 26, 2004) at 2-3.</p> <p><i>See also</i> '515 File History at Response</p>

Appears in claims	Claim Term	Plaintiff's Proposed Construction	Plaintiff's Intrinsic Evidence	Defendants' Proposed Construction	Defendants' Intrinsic Evidence
					to Office Action (June 14, 2011) at 4, 6, and 10-11.
claim 5 of the '876 patent	“wherein the graphical user interface is customizable to correspond to types of events that occur in the particular media being logged”	No construction necessary		“wherein the graphical user interface is changeable on the fly by the customer to correspond to types of events that occur in the particular media being logged”	<p><i>See, e.g.,</i> Ex. B ('876 Patent) at 2:57-2:65, 3:44-50, 6:59-63, 7:4-20, 11:48-13:22, 13:59-67, 14:36-41, 16:27-42, 17:7-13, FIGS. 12-17, FIGS. 25, 41-42; '515 patent at independent claims 1, 14, and 21.</p> <p><i>See also</i> '876 File History at Response to Office Action (December 10, 2007) at 2, 4-5, 7, 8, and 11-12, Response to Office Action (June 26, 2008) at 9-11, Pre-Appeal</p>

Appears in claims	Claim Term	Plaintiff's Proposed Construction	Plaintiff's Intrinsic Evidence	Defendants' Proposed Construction	Defendants' Intrinsic Evidence
					<p>Conference Request (August 26, 2008) at 2-5, Appeal Brief (November 10, 2008) at 7, 9, and 11-15, Response to Office Action (September 10, 2009) at 3-4, Response to Office Action (December 10, 2009) at 12-14, Notice of Allowance (March 5, 2010) at 2.</p> <p><i>See also</i> '010 File History at Response to Office Action (June 18, 2004) at 2-4 and 6-7, Notice of Allowance (November 26, 2004) at 2-3.</p>

Appears in claims	Claim Term	Plaintiff's Proposed Construction	Plaintiff's Intrinsic Evidence	Defendants' Proposed Construction	Defendants' Intrinsic Evidence
					<i>See also</i> '515 File History at Response to Office Action (June 14, 2011) at 4, 6, and 10-11.
claim 13 of the '876 patent	"a GUI generator configured to generate"	No construction necessary; Not subject to 35 U.S.C. § 112(6); and Not indefinite		Claim term construed under 35 U.S.C. § 112(6). Indefinite.	
claim 13 of the '876 patent	"custom display"			"display can be changed on the fly by the customer"	<i>See, e.g.</i> , Ex. B ('876 Patent) at 2:57-2:65, 3:44-50, 6:59-63, 7:4-20, 11:48-13:22, 13:59-67, 14:36-41, 16:27-42, 17:7-13, FIGS. 12-17, FIGS. 25, 41-42; '515 patent at independent claims 1, 14, and 21.

Appears in claims	Claim Term	Plaintiff's Proposed Construction	Plaintiff's Intrinsic Evidence	Defendants' Proposed Construction	Defendants' Intrinsic Evidence
					<i>See also</i> '876 File History at Response to Office Action (December 10, 2007) at 2, 4-5, 7, 8, and 11-12, Response to Office Action (June 26, 2008) at 9-11, Pre-Appeal Conference Request (August 26, 2008) at 2-5, Appeal Brief (November 10, 2008) at 7, 9, and 11-15, Response to Office Action (September 10, 2009) at 3-4, Response to Office Action (December 10, 2009) at 12-14, Notice of Allowance (March 5, 2010) at 2.

Appears in claims	Claim Term	Plaintiff's Proposed Construction	Plaintiff's Intrinsic Evidence	Defendants' Proposed Construction	Defendants' Intrinsic Evidence
					<p><i>See also</i> '010 File History at Response to Office Action (June 18, 2004) at 2-4 and 6-7, Notice of Allowance (November 26, 2004) at 2-3.</p> <p><i>See also</i> '515 File History at Response to Office Action (June 14, 2011) at 4, 6, and 10-11.</p>
claim 13 of the '876 patent	“a GUI generator”	No construction necessary		“graphical user interface software as a GUI generator”	<p><i>See, e.g.,</i> Ex. B ('876 Patent) at 11:48-13:22, FIGS. 12-17.</p> <p><i>See also</i> '876 File History at Appeal Brief (November 10, 2008) at 11-12.</p>

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Respectfully submitted,

/s/Timothy Devlin

Timothy Devlin (No. 4241)
tdevlin@devlinlawfirm.com
Paul Richter (admitted *pro hac vice*)
prichter@devlinlawfirm.com
DEVLIN LAW FIRM LLC
1526 Gilpin Avenue
Wilmington, DE 19806
(302) 449-9010
*Counsel for Plaintiff Charles Smith
Enterprises, LLC*

OF COUNSEL:

Andrew G. Strickland
LEE & HAYES, P.C.
75 14th Street NE, Suite 2500
Atlanta, GA 30309
Tel: (404) 815-1900
andrew.strickland@leehayes.com

Caleb Hatch
LEE & HAYES, P.C.
601 West Riverside Ave.
Spokane, WA 99201
Tel: (509) 324-9256
caleb.hatch@leehayes.com

/s/Griffin A. Schoenbaum

Kelly E. Farnan (#4395)
Griffin A. Schoenbaum (#6915)
RICHARDS, LAYTON & FINGER, P.A.
One Rodney Square
920 N. King Street
Wilmington, DE 19801
(302) 651-7700
farnan@rlf.com
schoenbaum@rlf.com

*Attorneys for Defendant
Catapult, Inc.*

OF COUNSEL:

Robert D. Finkel (*pro hac vice*)
BUCHANAN INGERSOLL &
ROONEY PC
Union Trust Building
501 Grant Street, Ste. 200
Pittsburgh, PA 15219
Tel.: (412) 562-5263
Email: robert.finkel@bipc.com

Andrew R. Cheslock (*pro hac vice*)
BUCHANAN INGERSOLL &
ROONEY PC
1737 King Street, Ste. 500
Alexandria, VA 22314
Telephone: (708) 838-6523
Facsimile: (708) 836-2021
Email: andrew.cheslock@bipc.com

/s/Geoffrey G. Grivner
Geoffrey G. Grivner (#4711)
BUCHANAN INGERSOLL &
ROONEY PC
500 Delaware Avenue, Suite 720
Wilmington, Delaware 19801
Telephone: (302) 552-4207
Facsimile: (302) 552-4295
Email: geoffrey.grivner@bipc.com

*Attorneys for Defendant DVSport,
Inc.*